

MICHAEL F. HERTZ
Deputy Assistant Attorney General
JOHN R. TYLER
Assistant Branch Director
ERIC B. BECKENHAUER, CSBN 237526
Trial Attorney

U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. NW
Washington, DC 20530
Telephone: (202) 514-3338
Facsimile: (202) 616-8470
E-mail: eric.beckenhauer@usdoj.gov

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL LAWYERS' GUILD SAN
FRANCISCO CHAPTER, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No. C 08-5137 CRB

**STIPULATION TO VACATE MOTION
HEARING AND STAY PROCEEDINGS;
AND ~~PROPOSED~~ ORDER**

WHEREAS, in an effort to narrow the issues before the Court,

1. Defendant CIS has performed a secondary search in response to Plaintiffs' February 2008 FOIA request, and has produced responsive, nonexempt records identified therefrom; and

2. Defendant ICE has reconsidered the bases for its withholdings of documents referred to it on September 5, 2008, by Defendant CBP in response to Plaintiffs' February 2008 FOIA request, and has produced responsive, nonexempt records identified therefrom; and

3. Defendant EOIR has agreed to reconsider the bases for its withholdings of records previously produced on June 2, 2008, in response to Plaintiffs' February 2008 FOIA request, and to produce any additional responsive, nonexempt records identified therefrom by May 8, 2009; and

1 4. Defendants ICE, CBP, and EOIR have agreed to perform secondary searches in
 2 response to Plaintiffs' February 2008 FOIA request (and, in the case of EOIR, in response to
 3 Plaintiffs' June 2008 FOIA request), but are currently unable to predict when these secondary
 4 searches, and the processing of any potentially responsive documents, will be complete; and

5 5. Defendants ICE, CBP, and EOIR have agreed that (a) no later than May 24, 2009,
 6 they will update Plaintiffs on the status of the secondary searches and processing, including, to the
 7 extent possible, the volume of potentially responsive records and the time required to complete the
 8 secondary searches and processing; (b) no later than May 24, 2009, they will make an interim
 9 production of any responsive, nonexempt records that have then been fully processed; and (c) no
 10 later than June 24, 2009, they will make a production (either interim or final) of any responsive,
 11 nonexempt records that have then been fully processed; and

12 WHEREAS it would minimize litigation costs and conserve judicial resources to suspend
 13 the summary judgment briefing schedule, and to stay further proceedings in this case, to permit the
 14 above-mentioned secondary searches and processing to take place;

15 IT IS HEREBY AGREED AND STIPULATED by and between the parties, through
 16 undersigned counsel, subject to the approval of the Court, that:

- 17 1. The motion hearing on Defendants' motion for summary judgment currently
 18 scheduled for September 25, 2009, is vacated;
- 19 2. The briefing schedule proposed in the parties' Case Management Statement and
 20 adopted in the Court's minute entry of February 20, 2009, is suspended;
- 21 3. Further proceedings in this case are stayed for a period of 60 days through and
 22 including June 24, 2009; and
- 23 4. No later than June 24, 2009, the parties shall submit a joint report advising the Court
 24 on the status of the above-mentioned searches and/or a stipulation proposing a
 25 schedule to govern further proceedings.

1 Dated: April 24, 2009

2 Respectfully submitted,

3 /s/ Jennifer Lee Koh
JENNIFER LEE KOH
4 JAYASHRI SRIKANTIAH
IMMIGRANTS' RIGHTS CLINIC
5 STANFORD LAW SCHOOL
559 Nathan Abbott Way
6 Stanford, CA 94305
Tel: (650) 724-2442
7 Fax: (650) 723-4426

8 LINTON JOAQUIN
KAREN TUMLIN
9 NATIONAL IMMIGRATION
LAW CENTER
10 3435 Wilshire Boulevard, Suite 2850
Los Angeles, CA 90010
11 Tel: (213) 639-3900
Fax: (213) 639-3911

12 JARED KOPEL
13 LISA DAVIS
DOMINIQUE-CHANTALE ALEPIN
14 WILSON SONSINI GOODRICH &
ROSATI
15 Professional Corporation
650 Page Mill Road
16 Palo Alto, CA 94304-1050
Tel: (650) 493-9300
17 Fax: (650) 565-5100

18 Attorneys for Plaintiffs

MICHAEL F. HERTZ
Deputy Assistant Attorney General

JOHN R. TYLER
Assistant Branch Director

/s/ Eric B. Beckenhauer
ERIC B. BECKENHAUER, CSBN 237526
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. NW
Washington, DC 20530
Telephone: (202) 514-3338
Facsimile: (202) 616-8470
E-mail: eric.beckenhauer@usdoj.gov

Attorneys for Defendants

21 ~~PROPOSED~~ ORDER

22 Pursuant to stipulation, **IT IS SO ORDERED.**

24 Dated: April 27, 2009

